

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ROBERT J. LABONTE,

Plaintiff,

v.

UNITED STATES,

Defendant.

No. 18-1784C

(Judge Hertling)

PLAINTIFF'S OPPOSITION TO MOTION TO EXTEND

Plaintiff Robert J. LaBonte, Jr. respectfully submits this opposition to Defendant's latest motion for an extension of the deadline to resolve Mr. LaBonte's claim for medical retirement. Mr. LaBonte has waited over a decade for a fair adjudication of his claim. Extending the deadline will prejudice Mr. LaBonte by denying him access to the health care and financial resources he has earned through his service and which he needs to provide for himself and his family. Given the parties' familiarity with this case, and its already repeatedly delayed adjudication, the Plaintiff reasonably expects the Government to have planned and prepared ahead of time to meet this deadline. This Court granted the Government 114 days since its remand order filed on December 3, 2019 to secure a medical opinion and consider the merits of Plaintiff's claim. Remand Order, ECF No. 57.

Now, the Government seeks 71 additional days, but offers no reason why the original amount of time was insufficient, or what the agency has done to attempt to meet the original deadline. Nor does the Government's motion explain why it needs over two more months to complete its task. Instead, Defendant states only that it needs more time to secure the medical opinion and to afford Mr. LaBonte an opportunity to respond. It is unclear why the original four-month period was insufficient. In fact, Defendant's counsel informed Mr. LaBonte's counsel by

email on January 31, 2020, that the ABCMR expected the medical opinion to be complete within a few weeks. For the first time since that correspondence, and well over three months since the remand, the Government is now asking for another extension of time, with no prior indication that it had any concerns about meeting the deadline.

Since the filing of this case, the Government has requested and received an additional 140 days beyond initial deadlines to respond to Mr. LaBonte's medical retirement claim. Mr. LaBonte consented to four of those requests hoping to facilitate a fair resolution to this case. Any further extension, however, would only delay justice to Mr. LaBonte before this Court by frustrating the efficient disposition of his claim. The extension would once again delay Mr. LaBonte's access to the medical care and financial resources he and his dependents sorely need.

For these reasons, Mr. LaBonte respectfully requests that the Court deny Defendant's latest motion to extend the deadline.

Dated: March 22, 2020

Respectfully Submitted,

By: /s/ Michael J. Wishnie, by Renee A. Burbank

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